

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ANTONIO ORLANDER JERIDO, #169480,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:19-CV-60-WHA
)	
MIKE HENLINE, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

I. INTRODUCTION

This 42 U.S.C. § 1983 action is pending before the court on a complaint filed by Antonio Orlander Jerido, challenging actions which occurred during his transport to the Elmore County Jail on May 14, 2018. Jerido also alleges he received inadequate medical treatment for injuries suffered during this transport. On May 15, 2019, Jerido filed a motion to dismiss in which he seeks to dismiss Officer Evans as a defendant because this individual was not involved the actions made the basis of this complaint. Doc. 35 at 1, ¶3.

Upon consideration of Jerido's motion to dismiss, the court concludes that this motion is due to be granted. Furthermore, since Evans has filed a response to the complaint and Jerido concedes Evans did not participate in the alleged violation of his constitutional rights, the court finds that the claims against Evans are due to be dismissed with prejudice. *See* Rule 41(a)(2), Fed. R. Civ. P.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The plaintiff's motion to dismiss be GRANTED.

2. The plaintiff's claims against Officer Evans be DISMISSED with prejudice.
3. Officer Evans be DISMISSED as party to this cause of action.
4. This case be referred back to the undersigned Magistrate Judge for further appropriate proceedings against the remaining defendants.

On or before **May 29, 2019** the parties may file objections to the Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered.

Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the plaintiff to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Lanning Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 15th day of May, 2019.

/s/ Charles S. Coody
UNITED STATES MAGISTRATE JUDGE